

**THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY**

**ORDINANCE NO. 2008-**

**THE SANTA FE COUNTY OIL AND NATURAL GAS ORDINANCE; AN ORDINANCE GOVERNING OIL AND NATURAL GAS EXPLORATION, DRILLING, PRODUCTION, ABANDONMENT AND REMEDIATION; ESTABLISHING THE POSITION OF OIL AND GAS INSPECTOR; PROVIDING FOR ZONING OF OIL AND NATURAL GAS FACILITIES AS A SPECIAL EXCEPTION PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE; PROVIDING LOCATIONAL CRITERIA FOR OIL AND NATURAL GAS FACILITIES; REQUIRING A DEVELOPMENT PERMIT FOR ESTABLISHMENT OF OIL AND NATURAL GAS FACILITIES; ESTABLISHING PROCEDURES AND SUBMITTALS FOR OBTAINING SPECIAL USE PERMITS AND DEVELOPMENT PERMITS FOR OIL AND NATURAL GAS FACILITIES; ESTABLISHING BONDING AND INSURANCE REQUIREMENTS; PROVIDING FOR PENALTIES AND ENFORCEMENT PROCEDURES; PROVIDING STANDARDS FOR EQUIPMENT, OPERATIONS, STANDARDS AND PRACTICES AT AN OIL AND NATURAL GAS FACILITY INCLUDING EMERGENCY PLANS, PROCEDURES AND EQUIPMENT, DRILLING, PRODUCTION AND REMEDIATION, NOISE AND NUISANCES, APPEARANCE, WATER, ROADS, LIGHTING, OPERATING HOURS, CULTURAL, HISTORICAL AND ARCHEOLOGICAL RESOURCES, SPILLS AND LEAKS AND TEMPORARY AND PERMANENT ABANDONMENT; PROVIDING FOR APPLICATION AND ANNUAL FEES; AMENDING A PORTION OF SANTA FE COUNTY ORDINANCE 1996-1, ARTICLE III, SECTION 5.2, DEFINING "MINERAL."**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:**

**ARTICLE 1 - GENERAL**

**SECTION 1. SHORT TITLE.**

This Ordinance may be cited as the "Santa Fe County Oil and Natural Gas Ordinance."

**SECTION 2. PURPOSE.**

This Ordinance is enacted to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of present and future residents of the County. It is the County's intent by enacting this Ordinance to permit the development of

oil and natural gas resources within the unincorporated areas of the County while also mitigating potential land use conflicts between such development and existing as well as planned land uses. It is recognized that under State law, the surface and mineral estates are separate and distinct interests in land, that the interests may and often are severed, and that the mineral estate is the dominant estate. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests. Similarly, owners of the surface estate have certain legal rights under common law and pursuant to the Surface Owner's Protection Act, NMSA 1978, §§ 70-12-1 through 70-12-12 (2007), including protection of existing surface uses and protection from or compensation for adverse land use impacts associated with the development of the mineral estate.

**SECTION 3. COMPLIANCE WITH ORDINANCE REQUIRED.**

No person shall engage in any work or construct any Oil and Natural Gas Facility in violation of any of the provisions of this Ordinance and relevant provisions of the Code.

**SECTION 4. DEFINITIONS.**

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicated a difference meaning:

A. *Abandonment* means permanent abandonment of a Well or an Oil and Natural Gas Facility, as established by the filings of the Operator or Owner with the OCD, from production records maintained by the OCD and the Taxation and Revenue Department, and from information gathered by the Oil and Gas Inspector. The County may presume abandonment of an Oil and Natural Gas Facility based upon: (i) nonuse or the lack of any production for one (1) year, as established from records of the New Mexico Taxation & Revenue Department; (iii) plugging and abandonment of a Well; or (iv) an Oil and Natural Gas Facility that is out of compliance with regulations of the OCD or this Ordinance for one (1) year.

B. *The Administrator* is the Director of the Land Use Division of the Growth Management Department, Santa Fe County, or any person subsequently assigned to perform substantially all of the functions exercised by that person.

C. *Agricultural* means property currently used for farming or ranching purposes, including pasture.

D. *Closed Loop System* means a system for drilling that utilizes a series of completely enclosed steel storage tanks that separate liquids and solids instead of a Reserve Pit.

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E. *Code* means Santa Fe County Land Development Code, Ordinance No. 1996-11 (as amended) and any successor ordinance.

F. *Collection Line* means a pipeline that collects produced or waste water and transports it to a central disposal area.

G. *Compatible* means that uses can exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses.

H. *Completion rig* is a drilling rig or a Workover rig used to complete or service a Well.

I. *Compressor* is a device in which the pressure of a gas is raised for transmission through pipelines.

J. *Compressor Station* means an installation consisting of one or more individual compressors, located on a gathering or transmission line, or both.

K. *County* means Santa Fe County, New Mexico.

L. *Cultural, Historic or Archeological Resource* means Historic Sites, Cultural Sites, Archeological Sites and Landmarks that are designated by the State of New Mexico. A list, called the Official Register of Cultural Properties, and the list of the National Register for Historic Places, are on file with the Administrator.

M. *Gas well* means a well having a pressure and volume of natural gas; specifically, producing methane, often in combination with a variety of other substances such as butane, propane and carbon dioxide.

N. *Gathering System* means a system of pipes, auxiliary tanks and other equipment used to move oil or natural gas from the Well to a Tank Battery or to the main pipeline for eventual delivery to a refinery.

O. *Lease* means any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an Operator or a person or entity holding title for the Operator, but which, due to the free royalty ownership, is developed and operated as a separate tract.

P. *Lessee* means a person, corporation or other legal entity that has been granted a Lease from the Owner.

Q. *OCD* means the Oil and Gas Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico, or any successor agency.

R. *Oil and Natural Gas Facility or Facilities* means:

i. An individual Well and the surrounding site built and operated to produce crude oil and/or natural gas, including auxiliary equipment required for such production (i.e., separators, dehydrators, pumping units, tank batteries, tanks, metering stations, and other equipment located within the perimeter of the well site);

ii. A Compressor Station and associated facilities that serve one or more wells employing engines and/or motors;

iii. A water injection station and associated facilities;

iv. A storage or construction staging yard associated with an Oil and Natural Gas Facility;

v. A facility related to the production of crude oil and/or natural gas which contains engines and/or motors;

vi. A Gathering System consisting of crude oil or natural gas gathering lines or water lines;

vii. Any facility associated with a Gathering System or water Collection Line, such as a drip station, vent station, pigging facility, chemical injection station, transfer pump station and valve box;

viii. A gas treating facility that serves multiple Wells or Gathering Systems; and

ix. A pipeline for which the power of eminent domain is available.

S. *Operator or Owner* means that person, corporation or other legal entity possessing the legal right to develop oil and gas resources or any other use proposed in connection therewith for the site in question.

T. *Platted Subdivision Lot* means any lot created pursuant to State law and the Code.

U. *Pollution* means the contamination or other degradation of the physical, chemical or biological properties of land, water or air, including a change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance onto the land or into the water or air that will, or is likely to, create a nuisance or render such land, water or air harmful, detrimental or injurious to the public

health, safety or welfare, or harmful, detrimental or injurious to domestic, commercial, industrial, Agricultural, recreational or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

V. *Producing* means the development stage in which marketable quantities of oil or natural gas, or both, are extracted from a Well and may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

W. *Reasonably prudent Operator* means an Operator that operates and conducts oil field operations in a proper and workmanlike manner, consistent with rules and regulations of the OCD, common industry practices, and guidelines of the American Petroleum Institute.

X. *Recompletion* means drilling within the same Well bore or re-perforating within an existing Well bore to reach a new reservoir.

Y. *Reserve pit* means a pit that is created at the drilling site of a Well to store the drilling fluid and strain the mud and other materials produced during drilling.

Z. *Residential* means having an existing residence or Platted Subdivision Lot.

AA. *Pit* means earthen excavation used for the purpose of retaining or storing substances associated with the drilling or operation of oil and natural gas wells.

BB. *Right-of-Way* means a tract or strip of land, separate and distinct from the adjoining property, owned, occupied or intended to be occupied by a Gathering Line.

CC. *Shut-in* means to close a valve on a well so that it stops producing.

DD. *Sour Gas* means natural gas containing hydrogen sulfite (H<sub>2</sub>S).

EE. *Spacing* means acreage dedicated to each well producing from the same formation, as established by the OCD.

FF. *State* means the State of New Mexico.

GG. *Tank* means a steel cylinder for the storage of oil.

HH. *Tank Battery* means a group of tanks located at a convenient point for storing oil prior to transportation by truck or pipeline to a refinery.

II. *Transmission Line* means a pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a "transmission line" by regulations of the Department of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968, as amended.

JJ. *Well* means any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of exploring for, producing and recovering any oil, gas liquid hydrocarbon, or any of them.

KK. *Workover* means an operation on a producing Well to restore or increase production. A typical Workover is cleaning out a Well.

LL. *Workover rig* means a piece of equipment designed to carry various tools necessary to complete a Workover.

MM. All technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry. All other words used in this Ordinance shall be given their usual, customary and accepted meaning in the oil and gas industry, or as defined in the Rules and Regulations of the OCD.

## **SECTION 5. OIL AND GAS INSPECTOR.**

A. The position of Oil and Gas Inspector is established. It shall be the duty of the Oil and Gas Inspector to enforce the provisions of this Ordinance.

B. The Oil and Gas Inspector shall be a person who, by virtue of education, training or experience is qualified to enforce the provisions of this Ordinance. The Oil and Gas Inspector may be a person employed by the County as a Code Enforcement Officer or may be a person contracted to perform the duties.

## **ARTICLE II - ZONING**

### **SECTION 1. ESTABLISHMENT OF SPECIAL USE REQUIRED.**

A. Use of any property within the County for an Oil and Natural Gas Facility shall not be permitted unless a Special Use Permit has been granted for the property in question. A Special Use Permit is required to locate a new Oil and Natural Gas Facility or Facilities anywhere in the County, to substantially change, expand, or modify an existing Oil and Natural Gas Facility or Facilities, or to re-enter a Well that is plugged and abandoned as shown on the records of the OCD. The Special Use shall be established in accordance with the specific procedures for securing a Special Use, if applicable, or in accordance with the procedures in place for securing approval of a master plan set forth in the Code (as amended).

B. An Oil and Natural Gas Facility shall not be established in an area where development is not permitted as established by the Code, a Traditional Community, or an area within the Residential Urban zoning classification. An Oil and Natural Gas Facility shall not be permitted within a Cultural, Historic or Archeological site, a site listed on the National Register for Historic Places, or a site designated in the Galisteo Basin

Archaeological Sites Protection Act (as amended), 108 Pub. L. No. 208, 118 Stat. 558 (2004).

**SECTION 2. APPLICATION AND SUBMITTALS.**

A. A separate Application for approval of a Special Use is required for each Oil and Natural Gas Facility.

B. In addition to submittals required by the Code, an Application for a Special Use shall include the following:

1. A detailed site plan that shows the proposed Oil or Natural Gas Facility relative to all structures and land uses within a three mile radius;

2. A statement of the proposed use of the Oil and Natural Gas Facility;

3. A statement that describes how the proposed Oil and Natural Gas Facility will comply with all the requirements of this Ordinance and other applicable provisions of the Code, or, as required, a statement describing why the Oil and Natural Gas Facility is entitled to a variance of any particular provision of this Ordinance or the Code;

4. Copies of all relevant documents filed with and/or approved by the OCD including, but not limited to, the Operator's registration and authority from OCD and any other submittals to and approvals from the OCD;

5. A description of the Operator or Owner's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator or Owner to those subsidiary or parent companies;

6. A complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;

7. If required by the Administrator after a review of the organizational documents of the applicant, a letter of indemnity from a parent or subsidiary corporation;

8. A list of Oil and Natural Gas Facilities owned or operated by the applicant that are not in compliance with regulatory requirements in the respective jurisdiction. For each such facility listed, provide details concerning the compliance issues experienced;

9. If a Well is to be drilled, details concerning the geological formations to be explored and details concerning the specific objectives, estimated quantity of oil or natural gas present, specific geologic and engineering data that supports the estimated

quantities, the depth of each proposed interval, any special difficulties anticipated (excessive pressure, tight rocks, H<sub>2</sub>S gas, etc.), and any anticipated difficulties expected in drilling, production, plugging and abandonment;

10. A detailed explanation of how products will be removed from the site. If surface trucking is to be used, provide a copy of the interstate and intrastate certificates of the trucking company, and provide a copy of the insurance certificate of each such company;

11. A detailed description and a time table for each phase of operations (exploration, drilling, production, abandonment) and a detailed description of the reclamation that will be provided after cessation of operations.

12. A detailed explanation of all steps to be taken to comply with applicable portions of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, other applicable laws and regulations, and any applicable health and safety standards;

13. A description of all hazardous, harmful, and toxic materials to be used and transported in connection with the proposed Oil and Natural Gas Facility and a description of steps that will be taken to ensure that the use of such materials will have no adverse impact;

14. A terrain management plan pursuant to the requirements set forth in the Code, that includes a reclamation plan consisting of the following:

a. A description of all areas affected in any way by the proposed Oil and Natural Gas Facility;

b. Details of the methods that will be utilized to avoid erosion on and adjacent to the site of the Oil and Natural Gas Facility and prevent migration of spills and leaks to watercourses, surface and ground water resources, and adjoining properties;

c. A detailed description of how reclamation shall be accomplished, as set forth in Art. VI, § 28(D) - (G);

d. A detailed description of techniques proposed to be used in reclamation;

e. A detailed estimated timetable for each phase of operations of the Oil and Natural Gas Facility, and the estimated date reclamation will begin;

f. The estimated cost of accomplishing each major step in the

reclamation plan, including re-contouring the surface to its pre-existing condition, re-vegetation of affected lands, and restoration of existing soils;

g. Detailed information about existing conditions including the degree of slope, precipitation patterns, and density of each species of vegetation, soil types, extent and location of water resources, geologic or other hazards, flood zones, eroded areas, wildlife and wildlife habitat, vegetation types and extent of cover. Photographs, videos and plans shall be used to document existing conditions;

h. Detailed information concerning the methods for stockpiling, protecting and restoring topsoil and adding other growth mediums where required, time of planting, method(s) of planting, proposed seed rates and/or density of planting, and if necessary, use of fertilizers;

i. A statement explaining how the proposed reclamation plan is consistent with any applicable state and local land use plans and programs;

j. A description of the manner in which the reclamation plan is consistent with the following local physical environmental and climatological conditions:

i. streams, creeks, arroyos, and bodies of water within three miles of the boundaries of the Well site;

ii. existing soils and geologic conditions;

iii. climate/meteorology characterization, such as prominent wind direction and speed, rainfall and ambient temperature ranges, with supporting data; and

iv. existing vegetation, wildlife and wildlife habitat according to species and density of occurrence, including photographs that document the existing conditions.

k. A listing of surface and sub-surface owners of record and anyone claiming an interest in the property proposed for the Well site, and of property adjacent to the Well site, and of oil and gas lease holders;

l. A description by township, range and section including the estimated acreage of surface area which will be disturbed as a result of the oil and gas exploration and/or production activities and transportation of the oil and gas products and waste. If an agreement has been reached with an affected surface owner pursuant to the Surface Owner's Protection Act, include a copy of such agreement;

m. A schedule which specifies the anticipated date upon which the Oil and Natural Gas Facility will commence activities and an approximate date when it will cease activities, when reclamation will begin, and the date reclamation is to be complete;

n. Any additional submittals required by the County.

16. An inventory of existing surface water and groundwater uses within three miles of the proposed Oil and Natural Gas Facility, including existing wells, permitted wells, and the extent of area water rights either used or available for use from area wells and surface water diversions, including all information available from the Office of the State Engineer;

17. A surface water and ground water monitoring plan consistent with the requirements of this Ordinance that includes collection of baseline water quality data as required by this Ordinance and the annual collection of data to determine whether degradation of surface or ground water resources or Pollution is occurring. Such plan must include a monitoring plan using existing surface water and ground water resources within a three mile radius of the proposed Oil and Natural Gas Facility or, if existing wells are not available for this purpose, a plan for locating, drilling and sampling additional wells;

18. A description of the waste and wastewater (quantity, chemical and physical quality) that will be produced from the Oil and Natural Gas Facility, and how such waste material will be disposed of at an OCD-approved facility;

19. Plans and specifications, stamped by an engineer registered in the State of New Mexico, with experience in Oil and Natural Gas Facilities, that detail construction, operation and maintenance of any facility intended for in-situ storage, containment, treatment, control and disposal of solutions, chemically-treated or contaminated materials, and wastes, including tanks used for oil storage;

20. Plans submitted in accordance with sub-part 20 above shall include, but not be limited to, the following:

a. A description of the facilities to be constructed, including tanks, pumps, pipes and other storage and conveyance means for oil and gas, processing solutions, chemically treated or impacted materials, and wastewater;

b. A management plan for control of surface water and groundwater that effectively eliminates the possibility that surface water and groundwater would be contaminated with any harmful, hazardous or toxic solution, chemical or process and which would

then flow out of the Oil and Natural Gas Facility;

c. A management plan for treatment and disposal of excess wastewater, including provisions for reuse and wastewater minimization;

d. A construction plan that includes, as applicable, the design of low-permeability soil barriers, the type of geosynthetics to be used and a description of their installation methods, any manufacturer's warranties for any equipment or material used on the permit area, the design of wastewater treatment facilities and processes, a quality assurance plan for applicable phases of construction and a listing of construction certification reports;

f. A spill and leak containment and control plan to contain all spills and leaks; and

h. Plans for heavy machinery and equipment maintenance shops, including plans for properly storing and disposing of petroleum products, solvents, and other harmful, hazardous or toxic materials.

21. A traffic control plan that includes accurate predictions of the number of site visits by type of vehicle per day;

22. A road maintenance, improvement or modification plan that includes baseline data for each road or highway to be impacted by the Oil and Natural Gas Facilities (including current photographs or video of the relevant portions of each existing road or highway), preliminary engineering reports concerning any improvements proposed for each road or highway, and a plan for addressing damage;

23. An emergency preparedness plan consistent with the requirements of Art. VI, § 2 of this Ordinance;

24. A landscaping and screening plan, consistent with the requirements of Art. VI, § 8(D) and 13(B), of this Ordinance, and the Code;

25. A water budget for the proposed Oil and Natural Gas Facility, including specifically water needs for well drilling, completion and plugging, as appropriate, and a detailed explanation of the proposed source of water to be used;

26. A list of all Cultural, Historic or Archeological sites, parks and other public facilities within three miles of the proposed Oil and Natural Gas Facility as well as the results of a cultural resource study on the property where the Oil and Natural Gas Facility is to be located;

27. A reconnaissance survey of cultural and archeological resources conducted at the proposed site of the Oil and Natural Gas Facility;

28. A survey of any rare or endangered species of animal, plant, or habitat of such species within three miles of the site of the proposed Oil and Natural Gas Facility; and

29. A survey of affected Agricultural land, wetlands, wild and scenic rivers or waterways, or ecologically critical areas within three miles of the proposed Oil and Natural Gas Facility.

C. All of the foregoing shall be incorporated into a site development plan and report, as required by the Code.

### **SECTION 3. NOTICE.**

A. In addition to any notice requirements set forth in the Code, a written notice of the pendency of an Application for a Special Use shall be provided to each surface owner within three miles of the proposed Oil and Natural Gas Facility. The Operator or Owner shall present proof of such notice by submitting a copy of the letter providing such notice, a list of the land owners notified, and certified mail receipts. The notice shall be mailed no less than five (5) days prior to submission of the Application. For purposes of notice for a proposed Well, a surface owner shall receive notice if the property boundary of the surface owner is within three miles of the proposed wellhead.

B. In addition to any notice requirements set forth in the Code, the notice of the pending Application shall also contain the following:

1. A description of the location of the proposed Oil and Natural Gas Facility, including a legal description and a street address, if available. The notice must identify the Operator or Owner and any designated agent for the Application; the current business address and telephone number for the Operator or Owner and its agent, if one has been designated; and a brief description of the facilities and equipment proposed to be located at the site when operational; and

2. the time and place of the public hearing; and

3. A statement that additional information may be obtained from the Administrator.

D. The property shall be posted with a notice provided by the County upon which the information described in subsection (C) shall be provided.

E. A notice of the time, place and street address of the public hearing, together with a description of the location of the proposed Oil and Natural Gas Facility and a

**11/27/07**

detailed summary of the Application, shall be published in a newspaper of general circulation in the County at least twenty-one (21) days prior to the date of the public hearing. An affidavit of publication shall be obtained from the newspaper and provided to the Administrator.

F. The Applicant shall also provide notice to any other person, agency or organization that has filed a request with the Administrator to receive notice of an Application for a Special Use or Development Permit for an Oil or Natural Gas Facility.

#### **SECTION 4. APPLICATION FEE**

Each application for approval of a Special Use pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

#### **SECTION 5. REFERRALS.**

A. The Administrator, may, in his or her sole discretion, refer an application for approval of a Special use to other government agencies or entities for review and comment, including but not limited to, specifically, the New Mexico Oil Conservation Division, the New Mexico Taxation and Revenue Department, the New Mexico Environment Department, the New Mexico State Engineer, and the New Mexico State Land Office.

B. The County may, in its discretion and at the expense of the applicant, hire experts to review the Application and submittals or to evaluate specific technical issues.

C. When an Application is scheduled for public hearing, the Administrator shall provide any comments received by other government agencies at the public hearing held on the application.

#### **SECTION 6. SETBACKS.**

A. An Oil and Natural Gas Facility shall not be located nearer to any of the following than the distance specified from the following existing uses:

1. One half mile of a Residential structure or a building used as a place of assembly, institution, or school;
2. One half mile of the designated buildable area of a vacant Residential lot;
3. Seventy-five (75) feet of a public road or highway;
4. Two hundred (200) feet of a Nonresidential or Industrial use;
5. Five hundred (500) feet of a groundwater re-charge area or wetland as defined by the United State Army Corps of Engineers;

6. Five hundred (500) feet of the limits of a one hundred (100) year floodplain, designated by the Federal Emergency Management Agency;
7. Two hundred (200) feet of any existing water well permitted by the Office of the State Engineer;
8. Two hundred (200) feet of a Cultural, Historic or Archeological Resource.

B. An Oil and Natural Gas Facility may be located nearer to a specified use only by obtaining a variance pursuant to the procedures set forth in the Code, and making a showing that application of a setback set forth in this Section is inconsistent with a Well location specified by OCD under its oil and natural gas spacing rules, or that application of the setbacks prescribed herein make it impossible to recover the oil or natural gas. If a variance is approved, the Oil and Natural Gas Facility shall be located as far from the existing use as is possible under the circumstances and mitigation measures shall be required as a condition of approval.

C. No building used as a place of assembly, institution, or school shall be constructed within three hundred (300) feet of any existing wellhead, production equipment or hydrocarbon storage tank. No road or highway shall be constructed or realigned to be within seventy-five (75) feet of any existing wellhead, production equipment or hydrocarbon storage tank.

D. No Residential, Nonresidential or Industrial structure other than structures necessary to operate a pipeline shall be erected or moved to a location nearer than thirty (30) feet of any pipeline transporting gas when the pipeline operating pressure is greater than 250 pounds per square inch gage (p.s.i.g).

E. Any setback required as a result of this Ordinance shall be shown or otherwise disclosed on all plats that encompass or border the Oil and Natural Gas Facility.

## **SECTION 7. HEIGHT.**

The permissible height of an Oil and Natural Gas Facility shall be that already established by the Code in the immediate vicinity of the proposed Oil and Natural Gas Facility or twenty-four (24) feet, whichever is less, provided that height limitations shall not apply to drilling, Workover, Recompletion or Abandonment operations.

## **SECTION 8. REVIEW CRITERIA.**

A. Each Application for approval of a Special Use shall be reviewed for general consistency with the standards and policies set forth in this Ordinance, the Code, the New Mexico Oil and Gas Act, the Water Quality Act, the regulations of the Water Quality Control Commission, the regulations of the OCD, and other applicable local, County, state and federal laws and regulations.

B. If the application for a proposed Oil or Natural Gas Facility does not comply with the criteria set forth in this Ordinance, the Application shall be processed in accordance with the procedure for requesting variances, found in the Code at Article II, Section 3, or any successor ordinance, and shall be subject to the review criteria for variances set forth in the Code.

C. An application for a Special Use Permit for an Oil or Natural Gas Facility shall be evaluated according to the applicable standards and requirements of this Ordinance and by applying the following criteria to the evidence:

i. Completeness. Whether the application is complete and all required submittals are provided.

ii. Operational Standards. Whether the proposed Oil and Natural Gas Facility meets or exceeds the operating standards set forth in Art. VI of this Ordinance.

iii. State and Federal Permitting. Whether the Operator or Owner has secured the necessary State and federal permits for the proposed Oil and Natural Gas Facility.

iv. Compatibility. Whether the proposed location of the Oil and Natural Gas Facility is compatible with adjoining uses given its size, design and operational characteristics, or can be made compatible by applying reasonable mitigation measures. Factors to be considered include noise levels, property values, impacts upon air and water quantity and quality, impacts on roads and highways, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety.

v. Adequacy of existing roads and access to the site. Whether existing roads, highways and local access to the site are adequate for the proposed Oil and Natural Gas Facility. Factors to be considered include existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.

vi. Site characteristics. Whether the specific site selected is adequate for the proposed development. Factors to be considered include topography, slopes, natural hazards (such as landslides, flooding, wildfire), and current resource values (such as open space, prime farmland as designated by Soil Conservation Service and wildlife habitat, Cultural, Historic or Archeological sites).

vii. Past Performance. Whether the Operator or Owner has violated any federal, state, and local laws regulating or pertaining to oil and gas exploration and production either in the United States or elsewhere. Relevant considerations include whether the Operator or Owner has experienced spills or leaks, water contamination (whether surface or subsurface), other environmental problems; the Operator or Owner's prior reclamation activities; whether the Operator or Owner has damaged fauna, flora,

and adjacent properties in previous operations; as well as any measures taken by the Operator or Owner to alleviate any such problems.

viii. Whether the proposed Oil and Natural Gas Facility will have an adverse impact on any social, economic or environmental factors, including local government services such as budgets, housing, schools, water supplies, transportation systems, utilities, health care, law enforcement and fire protection, whether the proposed Facility will be detrimental to the public health, safety, morals or the general welfare pursuant to NMSA 1978, § 3-21-1(A), or whether the proposed Facility will be detrimental to the safety, health, prosperity, morals, order, comfort and convenience of the County pursuant to NMSA 1978, § 4-37-1.

**SECTION 9. CONDITIONS.**

Reasonable conditions may be imposed on approval of a Special Use to mitigate deleterious effects of the proposed Oil and Natural Gas Facility, and to address issues that arise related to the review criteria specified in Section 8 of this Article.

**ARTICLE III**

**PERMITS FOR DEVELOPMENT  
OF AN OIL AND NATURAL GAS FACILITY**

**SECTION 1. DEVELOPMENT PERMIT REQUIRED**

Construction, installation and operation of an Oil and Natural Gas Facility shall not commence until a Development Permit for the specific Oil and Natural Gas Facility has been issued in accordance with the procedures for securing a Development Permit as set forth herein and as set forth in the Santa Fe County Land Development Code, Ordinance No. 1996-11 (as amended), or any successor ordinance.

**SECTION 2. APPLICATION REQUIRED.**

A. An application for a Development Permit for an Oil and Natural Gas Facility is required.

B. The application shall be in writing and signed by a person duly authorized to sign on behalf of the Owner or Operator. The Application shall be filed with the Administrator along with the required submittals set forth in Art. III, § 3 of this Ordinance, the required application fee set forth in Art. III, § 4 of this Ordinance, and the financial surety set forth in Art. IV, § 1 of this Ordinance.

**11/27/07**

C. A separate application shall be required for each Well and for each Oil and Natural Gas Facility. No development permit shall authorize the drilling of more than one Well or the installation of more than one Oil and Natural Gas Facility.

D. The application shall contain all information required by the Oil and Gas Inspector, and shall at a minimum contain the following:

1. The name and address of the Operator or Owner;
2. Copies of all relevant documents filed and approved by the OCD including, but not limited to, the approved Application for Permit to Drill (C-101), copies of the financial security deposited with the OCD, the Operator's registration and authority from OCD, an approval to Change Operator, and any other submittals to and approvals from the OCD;
3. If a Change of Operator is desired, a description of the new Operator or Owner's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator or Owner to those subsidiary or parent companies;
4. If a Change of Operator is desired, a complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;
5. If a Change of Operator is desired and, if required by the Administrator, a letter of indemnity from a parent or subsidiary corporation shall be provided;
6. If a Change of Operator is desired, a list of Oil and Natural Gas Facilities owned or operated by the applicant that are not in compliance with regulatory approvals in the respective jurisdiction. For each such facility listed, provide details concerning the compliance issues experienced;
7. The exact location of the proposed Oil and Natural Gas Facility;
8. If a new Well or a Workover of an existing Well is proposed, a drilling or Workover plan shall be submitted, including the amount, weight and size of conductor pipe, surface pipe and production pipe, and the procedures proposed for cementing each;
9. If a plugging and abandonment is proposed, a plugging and abandonment plan shall be submitted that details the proposed operations;
10. A statement describing the need for water during the proposed operations and the source of same;

11. The name and address of the person upon whom service of process or legal notice may be made on the Applicant within this State. A nonresident Applicant who has no agent for service of process within this State shall attach to the application a designation of a service agent who is a resident of Santa Fe County, New Mexico, and a consent that service of summons or legal notice may be made upon such person in any action to enforce any of the obligations of the Applicant hereunder;

12. Verification of the above information by the Applicant;

13. A bond or irrevocable letter of credit as described in Art. IV, § 1 of this Ordinance; and

14. Proof of insurance as required in Art. IV, § 2 of this Ordinance.

E. Where the application is one for the re-entry of an Abandoned well, said application shall contain all the information required by this Section, and shall also provide all of the following information:

1. a statement of:

a. the condition of the Abandoned well at the time the application is filed;

b. the depth to which it is proposed such well shall be deepened; and

c. the casing program to be used in connection with the proposed deepening.

2. a statement of the tests which will be run on the casing strings to show that the casing strings meet the same requirements for an original well. Include any proposed remedial cementing.

### **SECTION 3. SUBMITTAL REQUIREMENTS.**

A. Required submittals for any Application seeking a development permit for an Oil and Natural Gas Facility, shall be as follows:

1. A copy of the Order issued by the County authorizing a Special Use at the location of the proposed Oil and Natural Gas Facility;

2. Insurance certificates for insurance policies required by this Ordinance;

3. Financial security required by this Ordinance;

4. Four current 35 mm 3\_ inch X 5 inch color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed, taken with a 50 mm lens, prior to any activities having taken place, for purposes of establishing a baseline for site restoration following Abandonment;

5. A site plan;

6. A drainage control plan;

7. A reclamation plan;

8. A surface and groundwater monitoring plan;

9. A waste disposal plan;

10. Plans and specifications for the Oil and Gas Facility;

11. A traffic control plan;

12. A road maintenance, improvement or modification plan;

13. An emergency preparedness plan;

14. A landscaping and screening plan; and

15. Documentation that the conditions of approval imposed during approval of the Special Use have been complied with.

#### **SECTION 4. APPLICATION FEE**

Each application for issuance of a Development Permit pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

#### **SECTION 5. EFFECT OF PERMIT.**

A. When a Development Permit has been issued for an Oil and Natural Gas Facility, such permit shall constitute sufficient authority for drilling, operation, production, Workover, maintenance, repair and testing.

B. A permit issued pursuant to this Ordinance shall expire or be considered revoked if construction of the Oil and Natural Gas Facility is not completed within one (1) year of the date of issuance, with the following exceptions: (i) a multiyear phased

project that is approved as such during the approval of the Special Use; (ii) an Oil and Natural Gas Facility that is substantially completed.

**SECTION 6. AMENDMENTS, SUPPLEMENTAL PERMITS.**

A. An amendment to the Development Permit shall be required prior to undertaking any substantial modification to the Oil and Natural Gas Facility including, but not limited to, Recompletion, modifying or substantially altering equipment at the Facility, the Well configuration or type of product being produced (e.g. oil or natural gas), or substantially altering the site layout.

B. Any operation that deviates from the Development Permit that the Operator or Owner determines in good faith is necessary in order to maintain the existing level of production or operation, to preserve the public health, safety or welfare, or to prevent property damage or Pollution, may be done on an immediate basis without prior notice or approval by the County, so long as such modifications do not include the addition of equipment or operations. The Applicant shall provide the Oil and Gas Inspector and the Administrator with notification of such emergency modifications by filing a written amendment to the Application, specifying the modifications made, within two (2) working days of completion.

C. Once a Well has either been completed as a producer or Abandoned as a dry hole, a Supplemental Permit is required to Recomplete the Well. A supplemental permit shall require filing an application for a supplemental permit, specifying:

- i. The condition of the Well and the casing therein;
- ii. The depth to which it is proposed such Well be deepened or the new intervals to be perforated;
- iii. The proposed casing program to be used in connection with proposed deepening operations; and
- iv. Evidence of adequate current tests showing that the casing strings in said Well passed such tests.

D. In the event the Oil and Gas Inspector is satisfied that the Well may be Reworked with the same degree of safety as existed in the original Well, a supplemental permit may be issued authorizing the operation. In any Reworking operation, the Operator or Owner shall comply with all other provisions contained in this Ordinance applicable to the drilling, completion and operation of a Well.

**SECTION 7. ANNUAL OPERATING FEE.**

A. A non-refundable annual inspection fee is hereby levied upon each Oil and Natural Gas Facility operated or maintained within the County. The amount of such fee is set forth on Appendix A. The fee shall be paid by cashier's check, wire transfer or certified funds. The fee shall be payable to the County on or before the annual anniversary date of the issuance of any permit under the provisions of this Ordinance. No permit shall be considered valid for any year for which the annual inspection fee has not been paid.

B. Revenue from fees collected pursuant to this Ordinance shall be placed in a special fund the revenue from which shall be used to retain and pay the Oil and Gas Inspector. Revenue in excess of that required to retain and pay the Oil and Gas Inspector may be used for County general purposes.

**SECTION 8. ANNUAL REPORTING.**

A. Each Oil and Natural Gas Facility shall, annually, provide the following information to the Administrator and the Oil and Gas Inspector:

1. A current list of personnel who may be contacted in case of an emergency at the Oil and Natural Gas Facility. This list shall contain all information set forth in Article V, Section 2 of this Ordinance, information requested by the Administrator and the Oil and Gas Inspector, and information including, but not limited to the following:

- a. the name(s) of such person or persons;
- b. the job description(s) of such person or persons; and
- c. the residence, office and mobile telephone numbers of such person or persons.

2. A list of all Oil and Natural Gas Facilities owned or operated within the County by that Owner or Operator. This list shall include all Wells except Wells that have been plugged and Abandoned in compliance with law. The list shall contain all information requested by the Administrator and the Oil and Gas Inspector, including but not limited to the following:

- a. the lease name and well number of each Well;
- b. the legal description of each Well;
- c. the current status and use of each Well; and

- d. the current status and use of each Oil and Natural Gas Facility.

**SECTION 9. CHANGE OF OPERATOR.**

A. If a new Operator or Owner is appointed for an Oil and Natural Gas Facility, a new Development Permit for the Oil and Natural Gas Facility shall be required.

B. The new Owner or Operator must provide copies of the approved Change of Operator, Form C-145, from the OCD in addition to all submittals required for a Development Permit specified herein.

C. The obligations stated in this Ordinance on the previous Owner or Operator shall not be released (including required financial security and insurance) until new Development Permits are obtained by the new Owner or Operator.

**ARTICLE IV – BONDS AND INSURANCE**

**SECTION 1. FINANCIAL ASSURANCE.**

A. An Operator or Owner seeking to obtain a Development Permit for an Oil and Natural Gas Facility shall furnish a financial assurance acceptable in form to the County that runs in favor of the County and is conditioned upon compliance with all the terms and conditions of this Ordinance, directives of the Oil and Gas Inspector, any conditions of approval imposed on the permit, and any mitigation or remediation measures required as a result of the operation of the Oil and Natural Gas Facility.

B. Acceptable financial assurances include: (i) a \$5,000.00 performance bond for each Well or Oil or Natural Gas Facility; (ii) a \$50,000.00 blanket bond for each Well or Oil or Natural Gas Facility operated by an Operator within the County; (iii) an irrevocable letter of credit, in the same amounts; or (iv) an equivalent financial security acceptable to the County, in the same amounts.

C. A surety bond shall be executed by a reliable corporate surety authorized to do business in the state with the Operator or Owner as principal that runs in favor of the County. An appropriate power of attorney must be submitted along with a surety bond that provides the individual executing the bond on behalf of the principal with authority to execute same.

D. An irrevocable letter of credit shall be issued by a federally-insured financial institution located within the State of New Mexico, backed by cash on deposit at the institution representing the full value of the amount of the letter of credit. A letter of credit shall be for a term not less than five (5) years, and shall be automatically renewed on like terms unless the issuer notifies the County in writing of non-renewal at least thirty (30) days prior to the end of the five (5) year period. The County may forfeit and collect

a letter of credit if not replaced by an approved financial assurance at least thirty (30) days prior to the expiration date. Authorized representatives of the Operator or Owner and the depository institution shall execute a document evidencing the terms and conditions of the letter of credit. From time to time, accrued interest over and above the face value of the bond may be paid to the Operator or Owner.

E. All financial assurances pursuant to this Section shall become effective on or before the date the same is filed with the County and remain in force and effect throughout the life of the Oil and Natural Gas Facility, unless released earlier.

F. For good cause, the Oil and Gas Inspector, after notice to the Operator or Owner, may require the filing of a blanket bond or letter of credit in an amount higher than \$25,000.00 but not to exceed \$100,000.00. "Good cause" shall include, but shall not be limited to, a showing that the Operator or Owner has violated any of the provisions of this Ordinance.

G. The County shall release the financial assurance deposited pursuant to this Section upon written request of the Operator or Owner if the Well has been plugged and Abandoned and the location restored and/or remediated pursuant to this Ordinance, if the relevant Oil and Natural Gas Facility has ceased operation and has been similarly restored and/or remediated pursuant to this Ordinance, or if a Change of Operator has been approved pursuant to this Article and a new Development Permit has been issued.

## **SECTION 2. COMPREHENSIVE GENERAL LIABILITY INSURANCE.**

A. In addition to the performance security required by this Ordinance, the Operator or Owner shall also submit with the Application a policy or policies of commercial general liability insurance, including contractual liability, covering bodily injury and property damage that names the Operator or Owner as insured, issued by an insurance company authorized to do business in the State. Such policy shall provide a limit of liability in the aggregate of not less than \$10,000,000.00 per occurrence. Said insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation.

B. In addition to the performance security required by this Ordinance and in addition to the comprehensive general liability insurance required by the preceding paragraph, the Operator or Owner shall also submit with the Application a pollution insurance policy or policies that provides standard pollution liability insurance with a coverage of not less than \$10,000,000, issued by an insurance company authorized to do business in the State, and that names the Operator or Owner as insured. Such insurance policy shall be maintained in full force and effect from the date an Application is submitted pursuant to this Ordinance, through the commencement of drilling operations, completion and production of the Well, and continuing in force until the Well is plugged and Abandoned in accordance with the Oil and Gas Act, the Rules and Regulations of the

New Mexico Oil Conservation Division, and this Ordinance. A separate policy need not be obtained if pollution coverage is provided as a part of the comprehensive general liability insurance policy. Said insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation.

C. The Operator shall provide the County with a certificate of insurance and a copy of the policy as evidence of coverage. If liability insurance coverage terminates, the Development Permit shall terminate effective as of the date of cancellation and the Operator's right to operate under such permit shall cease until the Operator files evidence of reinstatement or replacement coverage.

D. An Operator offering a plan of self-insurance may provide a certificate of insurance as required by this section issued pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico, and the County's Risk Manager.

**ARTICLE V – VIOLATIONS, ENFORCEMENT, PENALTIES.**

**SECTION 1. CONSTRUCTION OR INSTALLATION OF UNAPPROVED OIL AND NATURAL GAS FACILITIES.**

It shall be unlawful to construct, install, or cause to be constructed or installed, any Oil and Natural Gas Facility within the unincorporated areas of the County unless a Special Use Permit and a Development Permit has been granted by the County. Any violation of the laws of the State or any rules, regulations or requirements of a State or federal regulatory body having jurisdiction over drilling, completing, equipping, operation producing, maintaining, or abandoning an Oil and Natural Gas Facility, related appurtenances, equipment or facilities, firewalls, fire protection blow-out protection, or safety protection, shall also be a violation of this Ordinance and shall be punishable in accordance with the provisions hereof.

**SECTION 2. ORDER TO CEASE OPERATIONS.**

In any situation in which the Oil and Gas Inspector finds that any person is not in compliance with the terms of this Ordinance, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the New Mexico Oil Conservation Division, the rules and regulations of the Water Quality Control Commission, or the practices of a reasonably prudent operator, that, in the judgment of the Oil and Gas Inspector, constitute a hazard to life, natural resources or property, the Oil and Gas Inspector may order immediate remedial action. If persons responsible for the situation take no immediate measures to come into compliance with the law or to reduce the hazard, or if the situation is so perilous as to constitute an imminent threat to the public health safety or welfare, then the Oil and Gas Inspector may order the prompt cessation of all activity at the Well site and,

if necessary, the clearance of the premises, and a temporary revocation of the Development Permit applicable to that Facility.

**SECTION 3. PENALTY.**

A. Any Operator or Owner, person, firm, corporation or legal entity that violates any provision of this Ordinance, any provision of a Development Permit or any condition thereto, or a valid directive of the Oil and Gas Inspector, shall be subject to the penalties set forth in NMSA 1978, § 4-37-3 (1993)(as amended).

B. The violation of each separate section of this Ordinance or a permit issued pursuant to this Ordinance shall be considered a separate offense, and each day the violation is allowed to continue shall be considered a separate offense. The County may revoke or suspend any Development Permit issued under this Ordinance if such violation is found to exist.

**SECTION 4. CIVIL ACTION.**

In case any building, structure or other oil and gas related development is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Ordinance, the County, in addition to the other remedies provided by law, ordinance or resolution, may seek an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

**SECTION 5. REVOCATION OF PERMIT.**

A Development Permit may be revoked if it is determined that the Operator or Owner provided information and/or documentation upon which approval was based, which was false, misleading, deceptive or inaccurate, or which the Operator or Owner, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate.

**SECTION 6. RIGHT TO ENTER.**

For the purpose of implementing and enforcing this Ordinance, the Oil and Gas Inspector may enter onto subject property upon notification of the Operator or Owner. If such entry is denied, the County shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

**SECTION 7. AUTHORITY OF OIL AND GAS INSPECTOR.**

A. The Oil and Gas Inspector shall have authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance. Failure of any

person to comply with such order or directive shall constitute a violation of the provisions of this Ordinance.

B. The Oil and Gas Inspector shall have authority to enter and inspect any Oil and Natural Gas Facility that is governed by this Ordinance to determine compliance with this Ordinance, the Code, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD, the rules and regulations of the Water Quality Control Commission, and any applicable directives.

C. The Oil and Gas Inspector shall have the authority to request and receive any records, logs, reports, studies and other documents relating to the status or condition of an Oil and Natural Gas Facility. Failure of any person to provide any such requested materials shall be deemed a violation of this Ordinance.

**ARTICLE VI – EQUIPMENT, OPERATIONS,  
STANDARDS AND PRACTICES**

**SECTION 1. GENERAL.**

All drilling and operations of an Oil and Natural Gas Facility shall strictly follow the requirements of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, and other applicable federal, state and local regulations, and shall be conducted at all times in accordance with the practices of a Reasonably Prudent Operator.

**SECTION 2. EMERGENCY PREPAREDNESS PLAN.**

A. Each Operator or Owner shall provide an emergency preparedness plan along with an Application for a Development Permit of an Oil or Natural Gas Facility. No Application shall be considered complete until the Applicant has provided such plan. The plan shall be filed with the Fire Chief, the Administrator and the Oil and Gas Inspector and shall be updated annually or as conditions change.

B. The emergency plan shall consist of the following, at a minimum:

1. Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations;

2. An as-built facilities map showing the name, location and description of all Oil or Natural Gas Facilities, including the size and type of all pipelines. The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (one inch = 2,000 feet), or digitally on the county geographic information system parcel maps. The as-built facilities map shall be held confidentially by the County's Fire Chief, and shall only be disclosed in the event of an emergency;

3. A written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills; and

4. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the County. This plan shall be coordinated with and approved by the County prior to beginning field operations.

### **SECTION 3. FIRE PREVENTION.**

Each Oil and Natural Gas Facility shall comply with all fire prevention requirements set forth in the Code and other applicable ordinances of the County relating to fire prevention, including the County Fire Code, and the Urban-Wildland Interface Code. Each Oil and Natural Gas Facility shall take all reasonable precautions to prevent natural gas from escaping into the air and shall not flare or burn natural gas from a torch or any similar means within the County; however, natural gas may be burned for a limited time when necessary to complete a Well upon the original completion or upon Recompletion of a Workover so long as such does not constitute a fire hazard to the property of others within the vicinity of such oil or natural gas Well. The Operator or Owner shall place a sign in a conspicuous site at each Well location or site to identify the Well with the name or number of the Well and the telephone number where a responsible person can be reached at home.

### **SECTION 4. REQUIRED FIRE PREVENTION EQUIPMENT.**

A. Each Oil or Natural Gas Facility shall maintain adequate firefighting apparatus, equipment and supplies at the site of the Facility at all times during drilling and production operations, including, but not limited to, all of the following:

1. During drilling operations, a minimum of four portable fire extinguishers, the size, rating, distribution and maintenance of which shall be in accordance with National Fire Protection Association (NFPA) Standard No. 10 ("Portable Fire Extinguishers) and NFPA Standard No. 30 ("Flammable Liquids Code");

2. Where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightning, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical and mechanical), spontaneous ignition, chemical and physical-chemical reactions and radiant heat. NFPA Standard No. 77 ("Recommended Practice on Static Electricity") and NFPA No. 78 ("Lightning Protection Code") shall be adhered to;

**11/27/07**

3. All hazardous materials and/or special hazards at the Facility shall be protected as set forth in applicable NFPA standards;

4. Lightning protection equipment shall be provided at each Facility containing crude or water storage tanks. The lightning protection equipment shall be in accordance with recommendations of the NFPA;

5. Crude and water tanks shall be installed with a vent system approved by the Oil and Gas Inspector. A flame arrestor approved by the Oil and Gas Inspector shall be installed on the vent line; and

6. Emergency firefighting apparatus and supplies shall be subject to the approval of the County Fire Chief, and shall be at the Oil and Natural Gas Facility at all times during the drilling operations, Workover operations and plugging operations, and at other times as appropriate given the nature of the operation.

#### **SECTION 5. REMOVAL OF RIGS FROM THE PREMISES, SECURITY.**

Any Drilling or Completion Rig shall be removed within thirty (30) days from the date of completion of a Well. Thereafter, when necessary, the completed Well may be served by portable rigs, which shall be removed from the premises within fifteen (15) days from the completion of the servicing operation. At all times from the start of the drilling phase until the Well is completed, the Operator or Owner shall keep a watchman skilled in oil and gas operations on duty on the premises at all times when other workmen of the Operator are not on such premises.

#### **SECTION 6. DRILLING.**

A. Internal combustion engines or electrical equipment may be used in drilling operations. If internal combustion engines are used, mufflers shall be installed on the mud pumps and on the engines. All electrical installations shall be made in conformity with the applicable New Mexico or County electrical code.

B. Drilling operations must be conducted in such a manner that surface water and ground water will not be degraded or Polluted, and shall at all times be conducted in such a manner that prevents vertical movement of water within the well bore. The Operator or Owner shall be solely responsible for ground water or surface water degradation or Pollution that occurs during drilling or completion operations and shall promptly remediate any degradation or Pollution that occurs.

C. The Operator or Owner shall also identify all aquifers penetrated, the depth of water and estimated production of all water bearing intervals by filing a written report no later than ten (10) days after completion of drilling.

**11/27/07**

D. Drilling operations shall be limited to daylight hours, except in the case of an emergency or where the depth of the Well exceeds 5,000 feet, in which case twenty-four hour drilling will be permitted. A Well shall be completed, serviced or fractured only during daylight hours. Except in an emergency, no materials, equipment, tools or pipe shall be delivered to or removed from a drilling site or the site of any Oil or Natural Gas Facility, except between the hours of 7:00 a.m. and 7:00 p.m. on any day.

E. Unless otherwise required by OCD, at the time of installation, all casing, tubing, valves, bradenhead, Christmas tree, blowout preventers, and well head connections shall be new and of a type and quality consistent with the practices of a Reasonably Prudent Operator.

F. Setting and cementing casing and drill stem tests shall be performed in a manner and at a time consistent with the rules and regulations of the OCD, the directives of the OCD and the Oil and Gas Inspector, and the practices of a Reasonably Prudent Operator. Surface casing shall meet or exceed the requirements of the OCD. The Oil and Gas Inspector may require a cement bond log or other appropriate integrity testing to verify the integrity of all cement placed in the well during drilling and completion operations.

**- OR - (From Oklahoma City):**

G. Except as otherwise provided by the OCD, surface casing shall be set a minimum of 200 feet below the deepest fresh water zone found in the eight sections adjacent to the Well site. A resistivity and porosity electric log shall be run in the surface hole before surface pipe is set, and a copy of said log shall be filed with the OCD and the Oil and Gas Inspector. The Oil and Gas Inspector may, in the Inspector's sole discretion, waive the requirement for a resistivity and porosity log if the Operator or Owner furnishes sufficient information from wells in the same section of land and surrounding sections of land that identifies the base of treatable water. Surface pipe shall have a centralizer in the middle of the shoe joint, a centralizer on the top of the second joint of casing, and centralizers no more than 200 feet apart above the second centralizer. Surface casing shall have a guide shoe installed on the bottom of the first joint of casing, and a float shall be installed within 90 feet of the guide shoe to prevent upward flow of cement through the casing. No cement baskets may be installed on the surface casing. Surface pipe shall be cemented by attempting to circulate good cement to surface by normal displacement practices. If cement cannot be circulated to surface due to washed out hole or lost circulation, the existing cement shall not be over-displaced and a plug shall be left in the bottom of the casing string to be drilled out once the surface is set. The remaining open hole behind the surface pipe shall be cemented by running a tubing string between the conductor string and the surface pipe until the top of the cement is tagged. The remaining uncemented annular space shall then be cemented until good cement is circulated to the surface. The inspector may require logs to be run to determine the actual top of the cement in the annulus prior to pumping cement down the small string of pipe installed in the annulus of the Well. The casing shall not be disturbed in any way until

***11/27/07***

the cement has set for a minimum of eight hours or any longer time required for the cement to reach a compressive strength of 500 psi. A cement bond log shall be run after the cement has set for 18 hours and before drilling operations are resumed. The Oil and Gas Inspector shall witness the calibration and running of the cement bond log, and the Oil and Gas Inspector shall examine the log and give approval of the cement bond before drilling operations are resumed. The Oil and Gas Inspector may waive the requirement for the cement bond log when he or she has witnessed the actual cementing of the Well and observed only positive indications that a good cement job was achieved. Surface casing must be new pipe of API grade J or K or higher grade and have a minimum burst pressure rating of 2,900 psi. All cement blends to be used in the installation of surface casing shall be submitted to the Oil and Gas Inspector for testing to determine the setting time. The cement samples and other information required by the Oil and Gas Inspector shall be submitted a minimum of thirty (30) working days prior to use. The Operator or Owner samples shall pay a nonrefundable testing fee for each cement blend to be tested in the amount of the actual fee for testing. The Oil and Gas Inspector may require all such samples as necessary to be submitted at drilling sites or elsewhere for quality control testing.

H. Upon completion of a Well, the Operator or Owner shall certify by affidavit that the Well has been set according to the rules and regulations and requirements of the OCD, and the practices of a Reasonably Prudent Operator. The affidavit shall stipulate the number of sacks of cement, the class of cement, blended materials, weight of cement in pounds per gallon, cement displacement pressure, final pumping pressure and whether checkvalves (float shoes, float collar) held the pressure. Commencement and completion times of such operation shall be stipulated. The affidavit shall be completed by a cementing service company and signed by both the Operator or Owner and the cementing service company.

I. Except as otherwise provided by OCD, appropriate blowout prevention equipment shall be used on all Wells being drilled, worked-over, or in which the tubing is being replaced. Unless otherwise specified by OCD, Wells being drilled shall have at least three hydraulically operated blowout preventers installed and these blowout preventers shall meet the American Petroleum Institute's recommendation for Class 3M blowout preventers. Unless otherwise specified by OCD, Wells being drilled shall also have a kill line, choke line, and choke manifold that meet the recommendations of the American Petroleum Institute for Class 3M blowout prevention equipment.

J. Only Closed Loop Systems shall be used during drilling and Completion of a Well. No open pits or Reserve Pits shall be permitted.

K. The Owner or Operator shall maintain all safety monitoring equipment deemed necessary in the sole discretion of the Oil and Gas Inspector, and shall inspect that equipment quarterly. The results of the monitoring and inspections shall be submitted to the Oil and Gas Inspector.

L. Drilling mud shall be disposed of by transporting the mud to an OCD-licensed disposal site. The mud may not be buried in an earthen pit on site, pumped down the Well bore or down the annulus of a Well, or spread on the surface of the ground at the site. All other waste shall be treated, stored and disposed in accordance with all local, state and federal requirements and regulations.

M. No surface waste disposal at the site of the Oil and Natural Gas Facility of wastes of any kind shall be permitted.

## **SECTION 7. GATHERING SYSTEMS.**

A. All operations relative to the design, installation, maintenance, and operation of a Gathering System shall conform to the requirements of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, this Ordinance and the applicable codes and that of a Reasonably Prudent Operator.

B. Any Gathering System shall be tested prior to being placed in service and the results of the tests shall be provided to the County.

C. Any Gathering System shall be tested at least annually and the results provided to the County. Additional integrity testing may be required as required by the Oil and Gas Inspector.

C. The Operator of a Gathering System shall provide the County as-built plans showing the location of all facilities.

D. A Gathering System shall be buried and backfilled as specified by the then-applicable codes.

E. Valves shall be installed on all Gathering Systems at such locations and spacing to safely and adequately control the operation of the lines and to minimize the quantity of natural gas, oil or water that would be released from the line if a line fails or ruptures. The types and locations of all valves shall be indicated on a plan layout and approved by the Oil and Gas Inspector.

F. Pipelines crossing certain roads and highways shall be cased and vented in accordance with the practices of a Reasonably Prudent Operator.

G. Location markers shall be installed to mark the exact location of gathering lines associated with a Gathering System. Each marker shall be approved, as to type and location, by the Fire Chief and the Oil and Gas Inspector. The failure to mark a location, or the removal of any marker without the express permission of the Oil and Gas Inspector, shall constitute violations of this Ordinance. All location markers shall include

the name of the Operator or Owner of the Gathering System and a telephone number where a responsible person can be reached at any time.

**SECTION 8. APPEARANCE AND MAINTENANCE OF THE SITE,**

A. The premises of an Oil and Natural Gas Facility shall be kept in a clean and sanitary condition. No mud, wastewater, oil, slush or other waste shall be permitted to flow into alleys, roads, streets, lots or leases. Suitable and adequate toilet facilities shall be made available in a clean and sanitary condition at all times during drilling operations.

B. An Oil and Natural Gas Facility shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the Well or pipelines from the Well or the production facilities allowed on the site.

C. Any Well which is completed shall be enclosed together with its surface facilities, by a substantial concrete block wall or chain link fence sufficiently high and properly built so as to ordinarily keep persons and animals out of the enclosure with all gates thereto to be kept locked when the Operator or Owner are not within the enclosure.

D. If a Residential structure exists or is constructed within one half mile of the Oil and Natural Gas Facility, the Operator or Owner shall provide landscaping and screening as set forth in the Code and herein. The Oil and Natural Gas Facility shall be screened and landscaped to screen all facilities from outside view and ensure compatibility with the surrounding area. Such screening shall consist of solid walls, evergreen vegetation or landscaped earthen berms at least six feet in height that completely around the site and all fences or lease equipment and facilities. Once approved by the Administrator, the Operator or Owner shall provide the landscaping and screening described in the Plan and shall keep all landscaping, walls or berms in good condition at all times.

E. The Oil and Gas Inspector shall have the power and authority to require general landscaping (trees, shrubs, grass, ground cover or flowers) of any Well or Oil and Natural Gas Facility as is deemed necessary.

F. An Operator or Owner shall promptly clear all premises associated with an Oil and Natural Gas Facility of all litter, trash, waste, and other substances used, allowed, or occurring in the drilling or producing operations.

**SECTION 9. STORAGE TANKS.**

Except as otherwise provided by the OCD, tanks used for the storage of condensate, crude oil or other hydrocarbon liquids produced by and used in conjunction with any Well shall be buried upon completion of the drilling of the Well. An impermeable liner shall be installed prior to burial and an appropriate leak detection system, approved by the Oil and Gas Inspector, shall be installed.

**SECTION 10. ROADS AND HIGHWAYS.**

A. Any traffic generated by an Oil and Natural Gas Facility shall not at any time impede traffic flow or cause a road or highway to operate at a lesser level of service than existed previously.

B. The type and amount of traffic to be generated by the proposed Oil and Gas Facility or at the time of its installation shall not cause deterioration to a public road or highway as a result of the activity without just compensation to the County. Any impacts on a public road or highway shall be mitigated by the Operator or Owner, and approval of a Special Use may be conditioned upon implementation of specific mitigation measures.

C. If roads or highways are reasonably certain to be damaged as a result of operations related to the Oil and Natural Gas Facility, or if existing roads are inadequate for the Oil and Natural Gas Facility, the Operator or Owner shall be required to improve said roads or highway, at the Operator or Owner's sole expense. The design, plans and specifications for any such improvements must be first approved by the County, and all such specifications shall meet or exceed then-applicable County road improvement standards, whether established by Ordinance, resolution or operating policy. A road improvement agreement between the Operator or Owner and the County may be required prior to undertaking the construction of any such improvements.

D. At least thirty (30) days prior to the actual commencement of operations at an Oil and Natural Gas Facility, the Administrator shall be notified in writing of the proposed date for commencement of operations. Such notification shall also contain the following information:

1. The maximum length, width and weight of any motor vehicle and the maximum weight of the load to be carried by any motor vehicle to be used in traveling to and from the site and transporting equipment to the site; and

2. A complete list of the proposed routes to and from the site for all motor vehicles to be used to travel to and from the site. Such list shall identify any and all roads and highways within the limits of the County proposed to be used by such motor vehicles traveling to and from the site.

E. The Administrator shall review the proposed routes and shall prepare a written order that either approves or disapproves the routes to and from the Oil and Natural Gas Facility. The Administrator shall designate alternate routes which are acceptable. During all operations, all motor vehicles used by any person to travel to and from the site shall be restricted to roads and highways approved by the Administrator.

F. No Oil and Natural Gas Facility shall be located within any road or highway maintained by the County. No such road or highway shall be blocked or encumbered or closed in any drilling, production or pipeline operation.

G. No excavation for any purpose or construction of any lines for the conveyance of fuel, water, or minerals on, under, or through a County road or public highway shall be made without express permission granted within a Development Permit.

H. The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any road or highway or leaving upon any road or highway any earth or other material or obstruction shall not be permitted unless authorized by the Development Permit.

**SECTION 11. NUISANCE AND ANNOYANCE.**

A. All equipment associated with an Oil and Natural Gas Facility shall be constructed and operated so that no noise, vibration, dust, odor, or other harmful or annoying substances or effect are created to the injury or annoyance of persons living in the vicinity. The Oil and Natural Gas Facility shall not be permitted to become dilapidated, unsightly or unsafe.

B. All above-ground production equipment associated with an Oil and Natural Gas Facility shall be painted in a uniform flat green or tan color, and maintained in good repair by the Operator or Owner.

C. Proven technological improvements in methods of production shall be adopted as they, from time to time, become available if capable of reducing factors of nuisance or annoyance.

D. There shall be no manual venting of natural gas into the open air without direct on-site supervision. No manual or automatic venting shall occur between the hours of 7:00 p.m. and 7:00 a.m. except in the case of an emergency.

**SECTION 12. NOISE.**

A. Within fifteen (15) days of the drilling of a new Well or servicing of an existing Well or the construction of an Oil and Natural Gas Facility, the Operator or Owner shall take sound pressure measurements to establish ambient sound levels, under the supervision of the Oil and Gas Inspector.

B. Measurement of sound levels shall be performed as follows:

1. Sound levels shall be measured at a distance equal to the residential setback required by this Ordinance from the subject equipment emitting the noise, or to the nearest residence, whichever is closer. Sound levels shall be measured, as near as

practicable, at the exterior edge of any adjacent building or residence closest to the equipment emitting sound.

2. In all sound level measurements, the existing ambient noise level from all other sources in the area shall be measured and considered to determine the contribution to the sound level by the oil and gas operation.

3. The ambient noise level shall be measured between 12:00 a.m. and 3:00 a.m.

C. An Oil and Natural Gas Facility shall not increase the sound levels more than one (1) dB(A) at a distance equal to the residential setback required by this Ordinance from the subject equipment emitting the noise, or to the nearest residence, whichever is closest to the source.

D. An Oil and Natural Gas Facility shall use shielding or enclosures to achieve the sound level requirements set forth above.

E. Production equipment shall be powered by electric motors if located within 1,320 feet of distribution voltage. Production equipment may be powered by engines prior to the time that the Oil and Natural Gas Facility is provided with electric power.

F. All equipment associated with an Oil and Natural Gas Facility shall minimize transmission of vibration through the ground.

### **SECTION 13. LIGHT**

A. Oil and Natural Gas Facilities shall comply with the Code, including the Night Sky Protection Ordinance, at all times except as specifically provided for herein.

B. The Operator or Owner shall log all lighting levels and shall provide day and night ambient levels prior to commencing work on the Oil and Natural Gas Facility. Levels shall be provided during the development and operation of the Oil and Natural Gas Facility on a daily basis. All lighting shall be limited to the minimum required to meet security and prescribed safety standards.

C. Lights shall be shut off on a drilling rig when not drilling.

D. Lighting that does not comply with the Code shall be permitted only as necessary to safeguard worker safety.

### **SECTION 14. CULTURAL, HISTORICAL OR ARCHEOLOGICAL RESOURCES**

No Oil and Natural Gas Facility may be located so as to affect or damage any Cultural, Historical or Archeological resource.

**SECTION 15. OPEN HOLE FORMATION OR DRILL STEM TESTING.**

A. Except as otherwise directed by OCD, all open hole formation or drill stem testing shall be done during daylight hours, with adequate advance notification thereof to the Oil and Gas Inspector to enable him or her to be present during such testing.

B. Except as otherwise directed by OCD, all open hole formation testing shall be done into steel tanks or flared properly in the case of gas.

**SECTION 16. FLARING OF GAS.**

Gas shall not be flared except as necessary during drilling and workover operations, and then only as permitted by regulations of the Oil Conservation Division and in accordance with flaring procedures approved by the OCD, the Oil and Gas Inspector and the Fire Chief.

**SECTION 17. DISPOSAL OF SALTWATER OR OTHER DELETERIOUS SUBSTANCES.**

A. Each Operator or Owner shall make sufficient provisions for the safe disposal of saltwater or other deleterious substances which may be brought to the surface. Any such disposal shall be at an OCD-approved disposal well or site. No disposal of such substances shall be permitted at the site of the Oil and Natural Gas Facility. When a disposal well is to be used for disposal of such substances, the location of the proposed well shall be identified, the Operator or Owner shall identify the disposal well by operator, lease, well name and number, and location.

B. In the event of any spill or leak of produced water or any deleterious substance, whatever the cause thereof, the Operator or Owner shall promptly notify the Oil and Natural Gas Inspector. If, in the judgment of the Inspector, such leak or spill represents a potential hazard to surface or ground water resources or the environment, the Inspector may issue whatever corrective orders are deemed appropriate and additionally may require the appropriate testing of the surface and subsurface for pollutant incursion, the cost of all such testing to be paid by the Operator and Owner, and may order remediation of the spill or leak, the costs of which are to be paid for by the Operator or Owner.

**SECTION 18. FRACTURING AND ACIDIZING.**

Fracturing and acidizing of any Well shall be performed in strict compliance with OCD Rules and the practices of a Reasonably Prudent Operator. Fracturing pressures shall be strictly controlled to ensure that fractures do not escape the zone being fractured.

Fracturing operations may be monitored by the Oil and Gas Inspector to ensure compliance with this Section. In no circumstance shall fracturing or acidizing operations result in oil, gas or other deleterious substances or pollutants to degrade or Pollute any surface or subsurface fresh waters.

**SECTION 19. SWABBING, BAILING AND PURGING WELLS.**

In swabbing, bailing or purging a Well, all deleterious substances removed from the bore hole shall be placed in appropriate tanks and no substances shall be ground applicated, nor shall any such procedures be permitted to degrade or pollute any surface or subsurface waters.

**SECTION 20. RUPTURE IN SURFACE OR PRODUCTION CASING.**

In the event a rupture, break or opening occurs in surface or production casing, the Operator or Owner, service company or drilling contractor shall promptly report the incident to the Oil and Gas Inspector. Immediate action shall be taken to repair such casing consistent with the Rules and Regulation of the OCD and the repairs shall be witnessed by the Oil and Gas Inspector.

**SECTION 21. DEPOSITING OIL PRODUCTS.**

No person shall deposit, drain or divert into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon, any oil or oily liquid with petroleum content, or any mud, rotary mud, sand, water or saltwater, or in any manner permit, by seepage, overflow or otherwise, any of such substances to escape from any property owned, leased or controlled by such person and flow or be carried into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon within the County.

**SECTION 22. SERVICE COMPANIES.**

Upon request of the Oil and Gas Inspector, service companies or other persons shall furnish and file reports and records showing perforating, hydraulic fracturing, acidizing, cementing, shooting, chemical treatment and all other service operations on any Well.

**SECTION 23. ACCUMULATION OF VAPOR.**

The Fire Chief shall have the authority to require the immediate shutting in of any Well or Oil and Natural Gas Facility if the Fire Chief finds that there exists, within a 100-foot radius, any gas or vapor in a quantity sufficient to constitute, in his judgment, or in the judgment of the Fire Chief, a fire hazard. The Well or Oil and Natural Gas Facility shall remain shut-in or closed in until the hazard and its cause have been remedied.

**SECTION 24. INSPECTION OF PRESSURE LINES.**

The Oil and Gas Inspector shall inspect all pressure lines in use at any Well or at any project to ensure that tubing, fittings, equipment or connections are reasonably tight, safe and free from leaks.

**SECTION 25. TEMPORARY ABANDONED WELLS.**

A. Whenever the OCD has granted temporary abandonment status for a Well, the Operator or Owner shall immediately provide a copy of the approved C-103 form on which such status has been granted to the Oil and Gas Inspector. The Well may remain in temporary Abandoned status no longer than two (2) years without the necessity of obtaining a new Development Permit.

B. Except as otherwise provided by OCD, any Well placed in temporary Abandoned status shall be supplied with fittings and valves to permit the pressure on tubing and each string of casing to be measured independently using a gauge. If, in the judgment of the Oil and Gas Inspector, mechanical integrity of the temporarily Abandoned Well is suspect, the Oil and Gas Inspector, in conjunction with the OCD, may order a mechanical integrity test be performed by one of the techniques described in 19.15.4.203 NMAC of the OCD rules and regulations. Except as otherwise provided by OCD, mechanical integrity testing may be required by the Oil and Gas Inspector each year that a Well is in temporarily Abandoned status. When the Oil and Gas Inspector determines that a leak exists, appropriate repair work or remedial cementing shall be performed by the Operator or Owner to correct the problem, pursuant to OCD regulations and as approved by OCD. All repair procedures shall be approved by the Oil and Gas Inspector and OCD and shall be consistent with rules and regulations of the OCD, and practices of a Reasonably Prudent Operator. The Oil and Gas Inspector shall be notified so that he or she may witness the repair work and test to confirm the success of such repair work.

C. The Operator or Owner shall also comply with any other requirements or conditions imposed by the Oil and Gas Inspector or the OCD concerning a temporarily Abandoned Well.

D. Any Well placed in temporary Abandoned status more than two years must be plugged and Abandoned or brought back into production, except as otherwise provided by OCD. If OCD permits a Well to be placed in temporary Abandoned status for longer than two years, a supplement Development Permit must authorize same.

**SECTION 26. ABANDONMENT, PLUGGING AND REMEDIATION.**

A. Whenever a Well is Abandoned or an Oil and Natural Gas Facility ceases operation, it shall be the obligation of the Operator or Owner to comply with the rules and regulations of the OCD, the regulations of the Water Quality Control Commission, or

the appropriate federal agency in connection with its abandonment, plugging and remediation.

B. A copy of the plugging and Abandonment forms shall be furnished to the County within ten (10) days of the date submitted to OCD. Upon Abandonment, the Operator shall erect and maintain an aboveground dry hole marker as required by OCD regulations.

C. No building shall be subsequently erected on or over any Abandoned Well.

D. Following Abandonment, the area formerly occupied by the Well or Oil and Natural Gas Facility shall be fully restored to the condition that existed prior to the activity. This shall include, but not be limited to, regrading of the site to its former contours, revegetation (as specified in the Code and this Ordinance), removal of all remains of the Well or Oil and Natural Gas Facility (including all deadmen, junk, tanks, buried material), fencing or walls, signs (except the Abandoned well marker), and access roads. Any and all spills, leaks or other Pollution of the site shall be fully remediated as set forth in this Ordinance.

E. When revegetating the Well or Oil and Natural Gas Facility, topsoil and other suitable rooting medium shall be provided and the affected land shall be revegetated in such a way as to establish a diverse, effective, and long lasting vegetative cover that is capable of re-seeding itself or spreading, is at least equal in extent of cover to the natural vegetation of the surrounding area, and is capable of supporting the range of wildlife associated with particular life zones affected. Native species should receive first consideration, but appropriately introduced species that are non-sterile hybrids may be used in the revegetation process. In order to assure the success of the revegetation program, the planting and seeding shall take place when natural precipitation will assist in establishing the plants and shall be supplemented with an irrigation program. Plants that die or are not established after a two year period shall be replaced; revegetation shall be monitored for a minimum of five (5) years. Success rate of re-seeding and re-vegetation shall be determined by the Administrator.

F. When preparing for revegetation of the Well or Oil and Natural Gas Facility, topsoil shall be removed from the affected land and segregated from other material. If such topsoil is not replaced on a backfill area soon enough to avoid deterioration, vegetative cover or other means shall be employed so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If it is determined that such topsoil is of insufficient quantity or is of poor quality for sustaining vegetation, or if other strata can be shown to be as suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata which are best able to support vegetation.

G. When revegetating the Well or Oil and Natural Gas Facility, new planting

shall not be required on any affected area where the chemical and physical characteristics of the surface and immediately underlying material of such affected area are, through no fault of the Operator or Owner, toxic, deficient in plant nutrients, or composed of sand, gravel, shale or stone to such an extent as to seriously inhibit plant growth and such condition cannot economically be remedied by chemical treatment, fertilization, replacement of overburden, natural weathering or like measures. In those cases where planting is not required, the Owner or Operator shall still be required to stabilize the affected area so that all applicable local, state and federal laws and regulations are not violated.

**SECTION 27. COPIES OF FORMS FILED WITH OCD TO BE FURNISHED.**

A. Copies of all applications, notices, forms, records, logs and all similar documents filed by the Operator or Owner with the OCD shall also be filed with the Oil and Gas Inspector within one week of filing with the OCD. The Oil and Gas Inspector shall, consistent with the requirements of the Open Records Act, keep confidential any material identified as confidential by the Operator or Owner unless such material is necessary as evidence in the prosecution of any violation of the provisions of this Ordinance or required to be available for public inspection under applicable law.

B. No transfer of ownership of any Oil and Natural Gas Facility shall be valid until the OCD has approved the change of ownership, a copy of the approved change of ownership form is provided to the Oil and Gas Inspector, and the new Operator or Owner has received a Development Permit as provided in this Ordinance.

**SECTION 28. PROHIBITION OF POLLUTION.**

A. Each Oil and Natural Gas Facility, each Operator or Owner, and any contractors, drillers, service companies, pipe-pulling and salvaging contractors, or other persons, shall at all times conduct their operations and drill, equip, operate, produce, plug and abandon all Wells and Oil and Natural Gas Facilities (including seismic, core and stratigraphic holes) in a manner that will prevent Pollution or contamination and the migration of oil, gas, saltwater or other substance from one stratum into another, including specifically the Pollution or degradation of any aquifer or fresh water bearing formation. Degradation or Pollution of surface or subsurface fresh water by deleterious substances used in connection with the exploration, drilling, producing, refining, transporting or processing of oil or gas is hereby prohibited and shall constitute a violation of this Ordinance.

B. Prior to applying for authorization for a Special Use, the Owner or Operator shall complete a baseline water quality testing program. Water samples from all water wells and surface water sources within a three mile radius of the proposed Well site shall be taken and the parameters tested to establish the baseline water quality for the area. The parameters to be tested shall be specified by the Oil and Gas Inspector and the County Hydrologist.

C. In the event a property owner refuses access to a well for purposes of baseline water quality testing, an affidavit from the Operator or Owner shall be provided summarizing efforts to obtain water samples from the location and the obstacles encountered. If possible, the Owner or Operator shall secure the signature of the property owner confirming that property owner's decision not to allow testing of water sources on that owner's property. If access is refused as described, the Operator or Owner shall be required to drill monitoring wells to provide the baseline data and monitoring required by this Ordinance.

D. At least annually thereafter, the Oil and Natural Gas Operator shall repeat its testing of surface and subsurface water resources to determine whether fresh waters have been degraded or Polluted as a result of the operation of the Oil and Natural Gas Facility, as compared to the baseline established during initial testing. Such results shall be provided to the Oil and Gas Inspector.

E. The Oil and Gas Inspector shall have the authority to require the construction of supplemental monitoring water wells in the event degradation or Pollution is suspected to physically document any degradation or Pollution of an aquifer or any other fresh water bearing formation. Such construction and monitoring shall be at the expense of the Owner or Operator.

F. In the event degradation or Pollution of surface or subsurface waters, the Operator or Owner shall immediately abate the degradation or Pollution, at its own expense, and cooperate and follow the directives of County, State and federal officials having jurisdiction over the incident.

G. Solid waste (garbage, refuse or discarded material generated by Oil and Natural Gas Facility's operations) shall not be stored or buried on the Well site. Solid waste must be removed on a scheduled basis to a designated and properly permitted landfill or authorized transfer station.

**SECTION 29. EFFECTS ON GROUND WATER AND HYDROLOGY.**

Disturbances of prevailing hydrologic balances and to the quantity of ground water and surface water both during and after exploration and extraction activities and during reclamation operations shall be unlawful.

**SECTION 30. GENERAL ENVIRONMENTAL PROTECTION STANDARDS.**

A. Each Oil and Natural Gas Facility shall minimize any noise, vibration, smoke and other particulate matter, odorous matter, toxic or noxious matter, radiation hazards, fire and explosive hazards, and electromagnetic interference.

B. An Oil and Natural Gas Facility shall not create any dangerous, injurious,

noxious or otherwise objectionable condition, noise or vibration, smoke, dust odor or other form of air Pollution, electrical or other disturbance, radiation, glare or heat.

C. To the greatest extent possible, and using the best technology currently available, oil and natural gas exploration and extraction shall be conducted to mitigate or avoid disturbances and direct impacts to fish, wildlife and their habitats or migratory habits. In addition, the design, construction and maintenance of access roads into and across the Oil and Natural Gas Facility shall be configured to control or prevent erosion and siltation, to prevent Pollution of water or damage to fish or wildlife or their habitat. All vertebrates and all other wildlife considered endangered by federal or state governmental authorities shall be prevented by the Operator or Owner from contact with chemicals, solutions, and wastewaters containing chemicals.

**SECTION 31. CONTROL OF SURFACE WATER RUN-ON AND RUN-OFF**

A. Surface water run-on and run-off shall be controlled such that it will not endanger the Oil and Natural Gas Facility or become contaminated by contact with process materials or loaded with sediment. The control systems shall be designed to accommodate a 200-year, 24-hour storm event, or the largest storm occurrence within the general area within the previous twenty (20) years from the date of the application, whichever is greater, as well as any other defined climatic event that is more appropriate to the site, and be placed so as to allow for restoration of the natural drainage network, to the maximum extent practicable, upon facility closure.

B. All materials shall be properly placed and protected from surface water and precipitation so as not to contaminate surface water.

**SECTION 32. ENHANCED RECOVERY, SALTWATER OR OTHER DISPOSAL WELLS.**

Construction of a well for enhanced recovery, disposal of saltwater or other types of deleterious substances, whether denoted as exempt pursuant to Resource Conservation and Recovery Act or not, is prohibited.

**ARTICLE VII - APPLICABILITY, SEVERABILITY**  
**AND**  
**AMENDMENT OF THE DEFINITION OF "MINERAL"**  
**WITHIN THE SANTA FE COUNTY LAND DEVELOPMENT CODE,**  
**ARTICLE III, SECTION 5.2**

**SECTION 1. APPLICABILITY.**

This Ordinance shall apply to any Development of any new Oil and Natural Gas Facility within the unincorporated areas of the County but shall not apply within the

exterior boundaries of an incorporated municipality, a federally recognized Indian Tribe, or to property owned by the United States, either in trust for a federally recognized Indian Tribe or otherwise.

**SECTION 2. SEVERABILITY.**

If any provision of this Ordinance shall be held invalid or non-enforceable by any court of competent jurisdiction for any reason, the remainder of this Ordinance shall not be affected and shall be valid and enforceable to the fullest extent of the law.

**SECTION 3. AMENDMENT OF THE CODE, ART. III, SEC. 5.2.**

The definition of “Mineral” set forth in Article III, Section 5.2 of the Code, is hereby amended as follows:

Mineral – means an inanimate constituent of the earth in solid state which when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form of metal or metallic compound, a non-metal, a non-metallic compound, a raw material for manufacturing, but shall not include surface water, or subsurface water, sand or gravel regulated by Article XI of this Code, or oil and gas.

**APPENDIX A**  
**FEES**

- 1. Application Fee, Application for Approval of a Special Use: \$6,000 per Well or Oil and Natural Gas Facility.**
- 2. Application Fee, Application for a Development Permit: \$1,000 per Well or Oil and Natural Gas Facility.**
- 3. Annual Fee: \$2,500 per Well or Oil and Natural Gas Facility.**